

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** March 25, 2011  
**POSITION:** Neutral  
**SPONSOR:** Department of Insurance

**BILL NUMBER:** SB 684  
**AUTHOR:** E. Corbett  
**RELATED BILLS:** AB 2490 (2009-10)

### **BILL SUMMARY:** Workers' Compensation Insurance: Dispute Resolution

This bill would require Insurance Program Agreements (IPA) be part of the policy form filed with the rating organization (and subsequently approved by the Insurance Commissioner). This bill would require worker's compensation insurers to provide written disclosure of an IPA to the employer concurrently with any written quote. This bill also would require that the IPA contain provisions specifying that California laws and courts will be used to resolve disputes that arise in California unless the choice of forum is negotiated otherwise prior to the policy's inception.

### **FISCAL SUMMARY**

The Department of Insurance indicates any costs resulting from this bill would be minor and absorbable within existing resources because the department is sufficiently staffed in the area of workers' compensation policy form review.

Due to the collection of additional fees associated with the additional filing requirement, the Department of Insurance further indicates this bill would generate approximately \$28,000 Insurance Fund revenue for both 2011-12 and 2012-13, and \$5,600 annually thereafter. In addition to impacting new submissions, the additional filing requirement would require amendments be made to policy forms that have already been filed/approved.

The Judicial Branch indicates that this bill has the potential to add to the courts' caseload (which would increase backlogs) and could create a pressure on the General Fund to handle the increased caseload. However, Finance notes that the courts typically do not receive funding on a caseload basis. Therefore, unless this particular caseload becomes significant and can be documented, it would likely be absorbed within existing resources.

### **COMMENTS**

The Department of Finance is neutral on this bill.

Existing law requires worker's compensation insurers to file policy forms with the rating organization and receive the Insurance Commissioner's approval, but does not specifically require IPAs to be part of the filing.

This bill would require any agreement, other than a settlement agreement resolving a particular dispute between an employer whose principal place of business is California and a workers' compensation insurer concerning resolution of disputes, including (but not limited to) an arbitration clause arising out of a workers' compensation policy or endorsement, be part of the form filed with the rating organization and be provided to an employer concurrently with any written quote. This bill also would require the form to contain provisions specifying that California laws and courts will be used to resolve disputes that arise in California

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Analyst/Principal (0221) J. Fitzpatrick	Date	Program Budget Manager Todd Jerue	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

**AUTHOR**

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**COMMENTS (Cont'd)**

unless the choice of forum is otherwise negotiated prior to the policy's inception. Failure to observe those requirements would render the dispute resolution agreement void and unenforceable. This bill also would provide that any dispute for which authority to resolve that dispute has been granted to a California state agency shall not be subject to alternative dispute resolution between an employer and a workers' compensation insurer.

A nearly identical bill, AB 2490 (Jones) of the 2009-10 Legislative Session, was vetoed by Governor Schwarzenegger because he felt it was unnecessary due to a lack of evidence demonstrating that a problem exists, the bill's language was too broad, and it would result in increased costs for regulatory interpretation.

		SO	(Fiscal Impact by Fiscal Year)							
Code/Department		LA	(Dollars in Thousands)							
Agency or Revenue		CO	PROP							Fund
Type		RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
1272/Ins Fees Gen		RV	No	U	\$0	U	\$28	U	\$28	0217
<u>Fund Code</u>	<u>Title</u>									
0217	Insurance Fund									